Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No.

In The

Supreme Court of the United States

Thomas C. Dunn,

Petitioner,

v.

Mona L. Kean.

On Petition for Writ of Certiorari To The District Court Of Appeal, First District, State Of Florida

---

PETITION FOR WRIT OF CERTIORARI

Thomas C. Dunn
Pro se
1224 Val Genes
Edmond, OK 73003
(405) 844-5047

QUESTION PRESENTED FOR REVIEW

Whether an interested party who serves and files a response to a party who filed and served an adversary petition then failed to serve pleadings, papers, and notice of hearings thereafter, was afforded such notice and opportunity to be heard as are requisite to the due process which the Fourteenth Amendment of the United States Constitution prescribes?

PARTIES TO THE PROCEEDINGS

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Personal Representative

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OPINIONS

The Order of the Circuit Court Of The Second Judicial Circuit In And For Leon County, Florida, entered September 21, 2000, not reported (App., infra, A-1 - A-2). The opinions of the District Court of Appeal, First District, State of Florida, entered January 25, 2002, and February 28, 2002, not reported (App., infra, A-3 - A-4 and A-5, respectively). The opinion of the Supreme Court of Florida, entered March 15, 2002, not reported (App., infra, A-6).

JURISDICTION

The District Court of Appeal, First District, State of Florida issued its Per Curiam, Affirmed opinion on January 25, 2002, and issued its denial for clarification on February 28, 2002. The Supreme Court of Florida dismissed a petition for review for lack of jurisdiction on March 15, 2002. Jurisdiction of this Court exists under 28 U.S.C. Section 1257(a).

U.S. CONSTITUTIONAL AND STATE OF FLORIDA PROVISIONS INVOLVED

The relevant constitutional and statutory provisions and rules are reprinted in the Appendix to this petition (A-7 – A-11).

STATEMENT

On March 10, 1998, Darrell Dunn, a proposed personal representative served and filed a Formal

Notice of Petition For Administration in regards to the Estate of Dorothy Lee Weaver in the Circuit Court Of The Second Judicial Circuit In And For Leon County, Florida. On March 30, 1998, Mona L. Kean (hereafter referred to as Kean) served Thomas Dunn a Petition To Revoke Probate, To Remove Personal Representative, To Appoint New Personal Representative Or Administrator Ad Litem, And To Admit Prior Will Of Decedent To Probate. On April 14, 1998, Thomas Dunn served and filed his response and motions titled AFFIDAVIT[1] thereby electing to make his appearance by his submission of his pleadings.

On June 13, 1998, Thomas Dunn received an Order Admitting Will To Probate and Letters Of Administration issued to Darrell Dunn. Thomas Dunn (hereafter referred to as Dunn) had no notice of a hearing held May 20, 1998 which resulted in the above orders. On September 7, 1998, Dunn sent a letter to the court (App., A-12 – A-13) in which he expressed questions regarding procedural due process

After six (6) months without receiving any

---

[1] Fla. R. Civ. P. 1.110(a) (App., A-10). The true nature of a motion must be determined by its content and not by the label the moving party has used to describe it. See also, Magnum Towing, Inc. v. Sunbeam Television Corp., 781 So. 2d 379, 380 (Fla. 3d DCA 1998) (treating a motion styled as a "motion for reconsideration" as a motion for rehearing); Olson v. Olson, 704 So. 2d 208, 210 (Fla. 5th DCA 1998) (construing a motion to set aside a final judgment as a motion for rehearing).

information from Kean, Dunn on February 26, 1999, sent a letter (App., A-14 - A-15) to Kean's attorney regarding her failure to serve pleadings and notice of hearings (copy filed with the court). After no response was received, an additional letter was sent to Kean's attorney May 16, 1999, and a copy was filed with the court (App., A-16 - A-17). This letter resulted again in no response from Kean's attorney. A letter was sent to Kean on November 20, 1999 (App., A-18 - A-19), that informed Kean that Dunn had not received a copy of any papers filled by her attorney, nor had he received any notice of hearings since receiving her petition. A copy of that letter was filed with the court.

On December 9, 1999, Dunn received a letter (App., A-20 – A-21) from Kean's attorney and seventy-nine (79) documents all after the fact. A copy of that letter and a list of the documents contained therein was filed with the court. To emphasize yet conserve space, a list of the documents by date of service or notary and title is included in the appendix (App., A-22 - A-27). None of these documents included Dunn as being served. On March 14, 2000, Dunn sent a letter (App., A-28 – A-29) to Kean's attorney which included the following, "Your-failure, as attorney representing Mona L. Kean, to provide me, an interested person, proper notice of filings, and notice of hearings as required is apparent. Sending me seventy-nine documents after the fact does not allow for my due process rights."

On April 1, 2000, Dunn received three (3) orders of the court dated March 20, 2000, of which he had not

received notice of hearing. On March 30, 2000, Dunn served and filed a Motion For Judgment Against Petitioner Mona Lisa Kean For Failure To Provide Notice, And Motion To Dismiss Petition Of Mona Lisa Kean With Prejudice which contained in pertinent part[1], "That Thomas C. Dunn has been denied due process and equal protection of the laws under The Constitution Of The United States, Amendmend V, and Amendment XIV, section 1, and under The Constitution Of The State Of Florida, Article I, section 9, and Florida Probate Code, by the omission and negligent acts of Petitioner Mona L. Kean." and "...grant any and all other relief this Court deems just and proper." On April 3, 2000, Dunn served and filed an Appeal Brief which in pertinent part contained, "In light of the Court's consideration and to protect the due process rights under The Constitution of the United States, The Constitution of the State of Florida and Florida Probate Code, Petitioner Kean's Petition To Admit Prior Will Of Decedent and Petition To Appoint New Personal Representative should be dismissed. Petitioner Kean may file a new petition at the appropriate time and provide appropriate notice to interested parties" and " The record of this probate action before the Court contains plain, fundamental errors that goes to the foundation of the action and is harmful error prejudicial to the Estate of Dorothy L. Weaver, causing an unnecessary depletion of the Estate of Dorothy L. Weaver."

[1] The petitioner now realizes that Amendment V does not apply in this instance.

On April 10, 2000, Dunn received a Motion To Extend Time For Attorney's Meeting from Kean, this being the first service he received from her since the service of her petition on March 30, 1998.

On April 19, 2000, at the start of a trial regarding whether Dorothy L. Weaver had the legal capacity to execute the Will, dated July 7, 1997 and whether it was procured by undue influence, it was brought to the attention of the court that various motions had been filed and were pending. The trial judge inquired about Dunn's motions, whereby again the question of due process was raised. The court denied the motions and commenced with the trial. On September 1, 2000, the trial court filed its final order. On September 8, 2000, Dunn filed a Motion For Written Order. On September 21, 2000, the trial court filed an Order Denying Motion For A Written Order (App., A-1 - A-2). On September 27, 2000, Dunn filed a second Motion For A Written Order (App., A-30 - A-32). The trial court did not rule on that motion. Dunn must rely on the oral pronouncement of the trial court as recorded in the transcript which follows in pertinent part:

"MR. THOMAS DUNN: My name is Thomas Dunn and I'm the son of Dorothy Weaver.
THE COURT: Yes, sir.
MR. THOMAS DUNN: A beneficiary of the estate.
THE COURT: Right.
MR. THOMAS DUNN: I have filed a motion for judgment against the petitioner, Mona Lisa Kean for failure to provide notice and a motion to

dismiss petition of Mona Lisa Kean with prejudice. And I have a copy for you.
THE COURT: Would you mind handing it to me.
MR. THOMAS DUNN: May I approach?
THE COURT: Yes, sure. You folks come up Anytime you need to hand me something. You don't need to ask my permission.
MR. THOMAS DUNN: Attached to that are all the letters and correspondence that I've made and a list of the things that I was finally sent.
THE COURT: Okay. And you're like Mr. Robert Dunn, you've been aware of all these proceeding, have you not?
MR. THOMAS DUNN: No, sir.
THE COURT: You've not been aware of them?
MR. THOMAS DUNN: I have had communications, mostly with the guardianship issue. But with—
THE COURT: You didn't talk with Mr. Carter? You didn't talk to his client, the personal representative about these matters?
MR. THOMAS DUNN: I've talked to Mike Carter the other day about what I was going to do today. And he talked to me about—
THE COURT: Yeah, but have you talked to him over the past two years about the status --
MR. THOMAS DUNN: No, sir.
THE COURT: No? Okay.
MR. THOMAS DUNN: And I have another, I call it an appeal brief. When I received your order, the last order —
THE COURT: Right.

MR. THOMAS DUNN: -- I submitted this to the court clerk. I don't know if it's titled right.
THE COURT: Well, let me see what it is, please. Thank you.
MR. THOMAS DUNN: And all copies have been sent to all parties.
THE COURT: Okay. What else?
MR. THOMAS DUNN: That's all, sir.
THE COURT: Okay. Thank you. Ms. Duchemin, do you have some reply you want to make to that?
MS. DUCHEMIN: Yes, your Honor. First of all, Your Honor, the interests of who is now the petitioner, the personal representative, Mr. Dunn, are coextensive. Until Mr. Thomas Dunn notified me that he wanted copies of the pleadings, it was my understanding that Mr. Carter was representing the interests of all the proponents of the will, including the personal representative and the brothers. At the time that Mr. Dunn notified me initially, I sent him copies of every single pleading I had in my file. And since that time, I have copied him with everything. As to his appeal brief, your Honor, it's a reiteration of the exact same issues that you've ruled on twice now by pretrial order and in your motion today, oral order denying the motion for rehearing. So I submit that there's been no prejudice demonstrated in this case. The petitioner has adequately represented all of the interests of the proponents of the will, and we need to go forward with the trial as scheduled.
THE COURT: Folks, we're going to have a trial today. Those motions are denied. This case has been pending long enough. The Court is going to

dispose of it after hearing all the evidence and arguments of the attorney. Yes, sir?
MR. CARTER: Your Honor, if I can just quickly say, I've never represented the two of them.
THE COURT: I understand that. I think the record is clear as to who you represent.
MR. THOMAS DUNN: I didn't hear that last –
THE COURT: The motion is denied.
MR. THOMAS DUNN: Mine?
THE COURT: Yes, sir.
MR. THOMAS DUNN: Exception, sir?"

On September 26, 2000 Dunn filed his notice of appeal to the First District Court of Appeal, State of Florida. Dunn's Amended Brief therein raised a question of due process, that being in pertinent part, "That as a result of the outrageous conduct of Appellee, Appellant has been denied substantive due process and equal protection of the laws under Amendment V, U.S. Constitution (1791) and Amendment XIV, Section 1, U.S. Constitution (1868)". And "The lower tribunal abused its discretion in denying Appellant's motions and appeal". In Dunn's Reply Brief it was stated that, "...*Mullane v. Central Hanover Trust*, 339 U.S. 306 (1950) provide standards regarding due process. Due process is a process. A result is irrelevant. Without due process, therein lies the prejudice and error." On January 25, 2002 the Court issued its Per Curiam, Affirmed Order. On February 4, 2002, Dunn filed a motion for clarification which therein contained, "Amendment XIV, Section 1, U.S. Const. (1868), in pertinent part, nor shall any State deprive any person of life, liberty, or property,

without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." On February 28, 2002, the Court denied Dunn's motion. On March 9, 2002 Dunn filed his notice to invoke discretionary jurisdiction of the Supreme Court of Florida. On March 15, 2002 the Court issued its order finding the Court was without jurisdiction and dismissed Dunn's petition for review.

REASONS FOR GRANTING THE PETITION

Kean served her petition on Dunn and thereafter failed to comply with the Florida Rules of Court (1998) (App., A-8 - A-11). When this fact was brought to the attention of the trial court by filing the letters mentioned above, by the prefiled motions and orally at an unscheduled hearing just before trial, the trial court denied the motions. When this fact was brought to the First District Court of Appeal, State of Florida, the court without comment affirmed the trial court's decisions. On appeal, the Florida Supreme Court found it lacked jurisdiction.

Black's Law Dictionary, 449 (5th ed. 1979) (defining) "Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. If any question of fact or liability be conclusively presumed against him, this

is not due process of law. An orderly proceeding wherein a person is served with notice, actual or constructive, and has an opportunity to be heard and to enforce and protect his rights before a court having power to hear and determine the case." Additionally, "The essential elements of due process of law are notice and opportunity to be heard and to defend in orderly proceeding adapted to the nature of the case...".

Title V, Chapter 25, Section 25.032, Florida Statutes states, "The Supreme Court of this state is hereby authorized and empowered to collaborate with any and all other courts of last resort, of other states and of the United States, in preparation and approval of uniform rules of court to make effective this and similar laws." The Florida Rules of Court are adopted and ordered by the Florida Supreme Court. Florida. Rules of Judicial Administration, Rule 2.020(a) defines, "Court Rule: a rule of practice or procedure adopted to facilitate the uniform conduct of litigation applicable to all proceedings, all parties, and all attorney's" (App., A-10).

Amendment XIV, Section 1, U.S. Const., in pertinent part, "nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws". Article I, Section 9, Fla. Const., in pertinent part, "No person shall be deprived of life, liberty or property without due process of law."

These fundamental rights (due process and equal protection) have been addressed though the history of the United States. The Florida Supreme Court in *Johnson C. Tibbetts v. Atwell Olson, et al.*, 91 Fla. 824,108 So. 679 (1926), opined in pertinent part, "The courts are required to adjudicate rights by due course of law, the essence of which is that, by appropriate procedure duly prescribed, fair notice and a reasonable opportunely to be heard shall be given to interested parties before judgment or decree is rendered". In *Wuchter v. Pizzutti*, 276 U.S. 13 (1928), the court opined in pertinent part, "...if the statutory provisions in themselves indicate that there is reasonable probability that if the statutes are complied with, the defendant will receive actual notice...". In *Hansberry v. Lee*, 311 U.S. 32 (1940), the court opined in pertinent part, "...when the judgment of a state court, ascribing to the judgment of another court the binding force and effect of res judicata, is challenged for want of due process it becomes the duty of this Court to examine the course of procedure in both litigations to ascertain whether the litigant whose rights have thus been adjudicated has been afforded such notice and opportunity to be heard as are requisite to the due process which the Constitution prescribes." In *Mullane v. Central Hanover Trust Co.*, 339 U.S. 306 (1950), the court opined in pertinent part, "This right to be heard has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest." and "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably

calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections". In *Armstrong v. Manzo*, 380 U.S. 545 (1965), The court opined in pertinent part, "It is an opportunity which must be granted at a meaningful time and in a meaningful manner. The trial court could have fully accorded this right to the petitioner only by granting his motion to set aside the decree and consider the case anew. Only that would have wiped the slate clean. Only that would have restored the petitioner to the position he would have occupied had due process of law been accorded to him in the first place. His motion should have been granted." In *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982), the court opined in pertinent part, "Conduct allegedly causing the deprivation of a constitutional right protected against infringement by a State must be fairly attributable to the State. In determining the question of "fair attribution," (a) the deprivation must be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by it or by a person for whom it is responsible, and (b) the party charged with the deprivation must be a person who may fairly be said to be a state actor, either because he is a state official, because he has acted together with or has obtained significant aid from state officials, or because his conduct is otherwise chargeable to the State." In *Tulsa Professional Collection Services v. Pope*, 485 U.S. 478 (1988), the court opined in pertinent part, "But when private parties make use of state procedures with the overt, significant assistance of state officials, state

action may be found."

The question of due process had been raised in five (5) letters, the 14th Amendment being raised in two (2) motions and at an unscheduled hearing before the trial court, and in Dunn's appeal brief, reply brief and motion for clarification to the First District Court of Appeal.

When the First District Court of Appeal, State of Florida, issued its decision, that decision plainly and simply was an expression upholding the trial court's decisions.

CONCLUSION

The judgment of the First District Court of Appeal, State of Florida should be reversed.

Respectfully submitted,

Thomas C. Dunn

Thomas C. Dunn Pro se
1224 Val Genes
Edmond, Oklahoma 73003
(405) 844-5047

April 2002

APPENDIX

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA

CASE NO. 98-00109-PR
PROBATE DIVISION

In Re: The Estate of:
DOROTHY LEE WEAVER
_____/

Darrell Dunn as Personal Representative
of the Estate of Dorothy Lee Weaver and
The Estate of Dorothy Lee Weaver,
Petitioner,

vs.

Mona Lisa Kean,
Respondent.
_____/

[Date of entry: Sep. 21, 2000]

ORDER DENYING MOTION FOR A WRITTEN ORDER

This cause was reviewed by the Court upon Thomas C. Dunn's pro se Motion for a Written Order.

The motion does not identify the motions. The Court ruled on all pending motions called up for hearing. None of the parties requested any rulings on

any pending motions prior to trial. The Court considers such motions either waived by the parties or if not waived implicitly denied by the Order dated August 29, 2000.

It is therefore,

ORDERED

The Motion for a Written Order is denied.

DONE AND ORDERED in Chambers at St. Augustine, St. Johns County, Florida, this 19th day of September, 2000.

s/Richard O. Watson
Richard O. Watson, Senior Circuit Judge

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D00-3842

THOMAS C. DUNN, an interested
party,
Appellant,
v.

DARRELL D. DUNN, as Personal
Representative of the Estate of
Dorothy Lee Weaver and Mona L. Kean,
Appellee.

Opinion filed January 25, 2002.

An appeal from Circuit Court for Leon County.
Richard O. Watson, Judge

Thomas C. Dunn, Pro Se, for Appellant.

Claire A. Duchemin, of Claire A. Duchemin, P.A.,
Tallahassee, for Appellee.

PER CURIAM.

AFFIRMED.

S/ ALLEN, C.J., MINER and DAVIS, JJ., CONCUR

DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151

February 28, 2002

CASE NO.: 1D00-3842
L.T. No.: 98-00109-PR

Thomas C. Dunn, An Interested Party	v.	Darrell D. Dunn As Personal Etc., Et Al.

Appellant/Petitioner, Appellee/Respondent(s)

BY ORDER OF THE COURT:
Appellant's motion filed February 8, 2002 for clarification, is denied.

I HEREBY CERTIFY that the forgoing is (a true copy of) the original court order.

Served:
Thomas C. Dunn Claire A. Duchemin Mike Carter

jm

s/ John S. Wheller
JON S. WHEELER, CLERK

SEAL OF
DISTRICT COURT OF
APPEAL STATE OF FLORIDA

SUPREME COURT OF FLORIDA

FRIDAY, MARCH 15, 2002

CASE NO.: SC02-574
Lower Tribunal No.: 1D00-3842

THOMAS C. DUNN vs. DARRELL D. DUNN, ETC.

Petitioner Respondent

It appearing to the Court that it is without jurisdiction, the Petition for Review is hereby dismissed. See Jenkins v. State, 385 So. 2d 1356 (Fla. 1980).

No Motion for Rehearing will be entertained by the Court.

A True Copy
Test:
s/ Thomas D. Hall
Thomas D. Hall
Clerk, Supreme Court

Seal Of
SUPREME COURT
OF THE
STATE OF FLORIDA

dy
Served:

HON. JON S. WHEELER, CLERK
THOMAS C. DUNN
J. MICHAEL CARTER
HON. BOB INZER, CLERK
HON. RICHARD O. WATSON, JUDGE

U.S. Const., Article VII, Amendment XIV, Section 1.

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C., Section 1257. State courts; certiorari

> (a) Final judgments or decrees rendered by the highest court of a state in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under the United States.

Fla. Const., Article I, Section 9.

> No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or

be compelled in any criminal matter to be a witness against oneself.

Title V, Chapter 25, Section 25.032, Florida Statutes.
25. 032. Certification of questions of law; rules and regulations. The Supreme Court of this state is hereby authorized and empowered to collaborate with any and all other courts of last resort, of other states and of the United States, in preparation and approval of uniform rules of court to make effective this and similar laws.

Title V, Chapter 25, Section 25.371, Florida Statutes.
25.371. Effect of rules.–When a rule is adopted by the Supreme Court concerning practice and procedure, and such rule conflicts with a statute, the rule supersedes the statutory provision.

Title XLII, Chapter 731, Section 731.107, Florida Statutes.
Probate Code: General Provisions. Adversary proceedings.–The rules of civil procedure shall be applied in any adversary proceeding in probate.

Florida Evidence Code. 90.203.
Compulsory judicial notice upon request. A court shall take judicial notice of any matter in s. 90.202 when a party requests it and: (1) Gives each adverse party timely written notice of the request, proof of which is filed with the court,

to enable the adverse party to prepare to meet the request.

Fla. R. Civ. P. 1.080.

Service of Pleadings and Papers

(a) Service; When Required. Unless the court otherwise orders, every pleading subsequent to the initial pleading and every other paper filed in the action, except applications for witness subpoena, shall be served on each party. No service need be made on parties against whom a default has been entered, except that pleadings asserting new or additional claims against them shall be served in the manner provided for service of summons.

Fla. R. Civ. P. 1.090. Time.

(d) For Motions. A copy of any written motion which may not be heard ex parte and a copy of the notice of the hearing thereof shall be served a reasonable time before the time specified for the hearing.

Fla. R. Civ. P. 1.100. Pleading and Motions.

(b) Motions. An application to the court for an order shall be by motion which shall be made in writing unless made during a hearing or trial, shall state with particularity the grounds thereof, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of hearing of the motion. All notices of hearing

shall specify each motion or other matter to be heard.

Fla. R. Civ. P. 1.110. General Rules of Pleading
(a) Forms of Pleadings. Forms of action and technical forms for seeking relief and of pleas, pleadings, or motions are abolished.

Fla. R. Civ. P. 1.310. Depositions Upon Oral Examination.
(b) Notice; Method of Taking; Production at Deposition.
(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced under the subpoena shall be attached to or included in the notice.

Fla. R. Jud. Admin. 2.020. Definition.
The following terms have the meanings shown as used in these rules: (a) Court Rule: a rule of practice or procedure adopted to facilitate the uniform conduct of litigation applicable to all proceedings, all parties, and all attorney's.

Fla. Prob. R. 5.041. Service of Pleadings and Papers.

(a) Service; When Required. Unless the court orders otherwise, every petition or motion for an order determining rights of an interested person, and every other pleading or paper filed in the particular proceeding which is the subject matter of such petition or motion, except applications for witness subpoenas, shall be served on interested persons unless these rules, the Florida Probate Code, or the Florida Guardianship Law provides otherwise. No service need be made on interested persons against whom a default has been entered, or against whom the matter may otherwise proceed ex parte, unless a new or additional right or demand is asserted.

Fla. Prob. R. 5.042

(b) Service for Hearings. A copy of any written petition or motion which may not be heard ex parte and a copy of the notice of the hearing thereon shall be served a reasonable time before the time specified for the hearing.

Fla. Prob. R. 5.345. Interim Accountings.

(d) Service of Objections. The objecting party shall serve a copy of the objection on the personal representative and other interested persons.

September 7, 1998

N. Sanders Sauls, Chief Judge
Second Judicial Circuit, Courthouse
301 South Monroe Street
Tallahassee, Florida 32301

Dear Judge Sauls:

Your Honor, I am having difficulty understanding what has occurred regarding the probate of the Estate of Dorothy L. Weaver, file number 98-00109-PR.

My first difficulty deals with the Formal Notice of Petition For Administration filed on March 16, 1998 by Darrell D. Dunn. When did the Court consider evidence and make a ruling as to written defenses and objections served on Petitioner Dunn and filed with the court clerk within the time frame allowed by law?

Also, how can the Court accept the Petition of Mona Lisa Kean vs Darrell D. Dunn, as Personal Representative when at the filing of the Kean Petition, Darrell D. Dunn had not been issued Letters of Administration, nor had the will been admitted to probate? The transcript of the May 20, 1998 hearing clearly indicates that the Court was considering the Kean Petition as adversary proceedings. On page 45 and 46 of the transcript, it appears that the Court realized a procedure problem existed when on page

45, line 14 your Honor stated, "It says after issuance of letters --". Then on page 46, starting at line 7, your Honor stated , "Whatever you filed, I'm going to deem it, if it's necessary, as an answer to the petition, and it's your petition for revocation of probate. And normally under this, I think we'll just deem it as your petition". However, in the Order dated June 8, 1998, paragraph 8, appears contrary to the transcript ruling of the Court. This adds to my difficulty understanding due process in that if the Court ruled the Kean Petition as "your petition" then this can not be written defenses and objections to the Dunn Petition and therefore Kean failed to respond and should have been forever barred. However, the record does not indicate the Court making a clear ruling on the matter. I have asked counsel to explain the above matters, however counsel is at a loss to explain this procedure as it has taken place, in comparison to Florida Statue, Chapter 733, Probate Code and Florida Rules of Civil Procedure.

Considering the above your Honor, my question remains. When does the Court have a hearing on the Petition of Darrell D. Dunn? Until this is done anything else is an unnecessary depletion of the estate, is it not?

Sincerely yours,

s/ Thomas C. Dunn
Thomas C. Dunn

February 26, 1999

Claire A. Duchemin
Attorney at Law
3845-1 Killearn Court
Tallahassee, FL 32308

IN RE: Mona Lisa Kean, Petitioner vs. Darrell Dunn, as Personal Representative of the Estate of Dorothy Lee Weaver, and the Estate of Dorothy Lee Weaver, Respondent. Case Number 98-00109 PR.

Dear Ms. Duchemin;

On the 17th of January, 1998, I received from Darrell D. Dunn, *Formal Notice Of Petition For Administration* and on that date signed a *Waiver Of Priority, Consent To Appointment Of Personal Representative, And Waiver Of Notice And Bond.*

I received a copy of the above referenced petition on the 30th of March, 1998. I responded to the petition on the 14th of April, 1998 and my response is on file with the Court. To date I have yet to receive any other correspondence, service, notice of filings, nor notice of hearings regarding this matter from Mona L Kean or you as her attorney. Why ?

Sincerely,
s/ Thomas C. Dunn
Thomas C. Dunn
1224 Val Genes
Oklahoma City, OK 73003

cc: The Honorable John E. Crusoe
Judge of the Second Judicial Circuit
Courthouse
301 South Monroe Street
Tallahassee, FL 32301

May 16, 1999

Claire A. Duchemin
Attorney at Law
3845-1 Killearn Court
Tallahassee, FL 32308

IN RE: Mona Lisa Kean, Petitioner vs. Darrell Dunn, as Personal Representative of the Estate of Dorothy Lee Weaver, and the Estate of Dorothy Lee Weaver, Respondent. Case Number 98-00109 PR.

Dear Ms. Duchemin;

I have not received a response to my letter date 2/26/99. Since receiving the above referenced petition on March 30th, 1998, I have not received any other correspondence, service, notice of filings, nor notice of hearings regarding this matter from Mona L Kean or you as her attorney.

If you are of the opinion that Mike Carter, Attorney at Law is representing me in this matter then you are wrong. Mr. Carter does not represent me.

I am also faxing this letter to the Court so as to preserve my interests in regards to the above referenced petition which is titled PETITION TO REVOKE PROBATE, TO REMOVE PERSONAL REPRESENTATIVE, TO APPOINT NEW PERSONAL REPRESENTATIVE OR ADMINISTRATOR AD LITEM, AND TO ADMIT PRIOR WILL OF DECEDENT TO PROBATE

Sincerely,
s/Thomas C. Dunn

Thomas C. Dunn
1224 Val Genes
Oklahoma City, OK 73003

cc: The Honorable John E. Crusoe

November 20, 1999

Mona Lisa Kean
13440 Cleburne Highway
Cresson, TX 76035

IN RE: Mona Lisa Kean, Petitioner vs. Darrell Dunn, as Personal Representative of the Estate of Dorothy Lee Weaver, and the Estate of Dorothy Lee Weaver, Respondent. Case Number 98-00109 PR

Dear Ms Kean;

Since receiving the above referenced petition on 3/30/98, I have not received service, notice of filings, nor notice of hearings regarding your petition as required by Florida statues. I have written your attorney, Claire A. Duchemin on 2/26/99 and 5/16/99 regarding the failure to serve notice of filings, and notice of hearings subsequent to the filing of the above referenced petition. I have been informed that the responsibility to serve me notice of filings and notice of hearings rests on the petitioner in regards to the above referenced petition.

Please take notice that the waiver I granted, of which you are probably aware, applied only to the personal representative's petition for administration and not to your petition referenced above. This will be my last correspondence regarding this matter. Subsequent failure of you, the petitioner, to serve me proper notice of filings and notice of hearings as required by Florida statues may result in litigation against you.

Sincerely,
s/ Thomas C. Dunn

Thomas C. Dunn

CLAIRE A. DUCHEMIN, P.A.
Attorney At Law
1350-52 North Gadsden Street
Tallahassee, Florida 32303
Telephone 850-425-2855
Facsimile 850-425-2442

December 7, 1999

Mr. Thomas C. Dunn
1224 Val Genes
Oklahoma City, OK 73003

Dear Mr. Dunn:

My client, Mona Lisa Kean, has provide me with a copy of your letter regarding copies of materials filed in the case of the Estate of Dorothy Lee Weaver. Although I totally disagree with your interpretation of the applicable rules, in an effort to end the constant harassment of my client by either you or one of your other brothers, I am enclosing one copy of each and every item I have filed on my client's behalf with the probate court in the estate case. I note with interest that your name is not on the certificate of service for pleadings filed by the Estate. However, since I know you and your brothers are in regular contact concerning the never-ending vendetta against your sister, I assume you will obtain copies of those pleadings filed by the personal representative for the estate from him or his attorney. The cost for these photocopies is $55.00. Please remit this sum immediately.

Thank you.

Sincerely,

s/ Claire A. Duchemin
Claire A. Duchemin
CAD/cd
cc: Client

EXHIBIT 3

LIST OF DOCUMENTS BY DATE OF SERVICE OR NOTARY AND TITLE

DATE	TITLE
01/14/98	NOTICE OF TAKING DEPOSITION
03/04/98	NOTICE OF APPEARANCE
03/24/98	STATEMENT OF CLAIM
03/25/98	SUMMONS
03/25/98	PETITIONER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
03/25/98	EMERGENCY MOTION TO FREEZE ASSETS OF ESTATE
03/28/98	SUMMONS
04/13/98	MOTION TO STRIKE NOTICE OF HEARING
04/22/98	MOTION TO STRIKE NOTICE OF HEARING
04/22/98	AMENDED NOTICE OF HEARING
04/28/98	PETITIONER'S MOTION FOR PARTIAL SUMMARY JUDGMENT
04/29/98	NOTICE OF HEARING
04/30/98	MOTION TO STRIKE RESPONDENT'S ANSWER, PURPORTED AFFIRMATIVE DEFENSE, AND AFFIDAVITS SUBMITTED TO COURT IN SUPPORT OF VARIOUS MOTIONS
04/30/98	MOTION IN LIMINE
04/30/98	SECOND AMENDED NOTICE OF HEARING

05/04/98	THIRD AMENDED NOTICE OF HEARING
05/13/98	AFFIDAVIT
05/13/98	AFFIDAVIT
05/14/98	NOTICE OF FILING OF AFFIDAVITS IN SUPPORT OF PETITIONER'S MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO RESPONDENTS' MOTION FOR SUMMARY JUDGMENT, EMERGENCY MOTION TO MARSHALL ASSETS, AND OTHER PENDING MOTIONS
05/19/98	MEMORANDUM OF LAW IN SUPPORT OF PETITIONER'S PENDING MOTIONS AND IN OPPOSITION TO RESPONDENTS' PENDING MOTIONS
05/22/98	PETITIONER'S FIRST REQUEST FOR INSPECTION
05/29/98	NOTICE OF FILING ORIGINAL WILL
06/09/98	OBJECTION TO INVENTORY
06/16/98	NOTICE OF HEARING
06/18/98	PETITIONER'S RESPONSE TO MOTION TO RESTYLE THE CASE
06/18/98	PETITIONER'S RESPONSE TO RESPONDENTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AS CORRECTED AND OBJECTIONS TO THE REQUEST
06/18/98	EMERGENCY MOTION TO COMPEL
06/18/98	REPLY TO AND MOTION TO STRIKE AMENDED AFFIRMATIVE DEFENSES

06/18/98	MOTION TO STRIKE RESPONDENT'S AMENDED ANSWER
06/29/98	OBJECTIONS TO DISCOVERY REQUESTS AND MOTION FOR PROTECTIVE ORDER
07/07/98	NOTICE OF PRODUCTION FROM NON-PARTY
07/07/98	RESPONSE TO MOTION TO DISMISS AND MOTION FOR MORE DEFINITE STATEMENT
07/07/98	NOTICE OF HEARING
07/08/98	NOTICE OF PRODUCTION FROM NON-PARTY
07/21/98	PETITIONER'S RESPONSE TO RESPONDENTS' SECOND REQUEST FOR PRODUCTION OF DOCUMENTS AND OBJECTIONS TO THE REQUEST
07/21/98	PETITIONER'S RESPONSE TO RESPONDENTS' REQUEST FOR ADMISSIONS
07/21/98	NOTICE OF TAKING DEPOSITION DUCES TECUM
07/21/98	NOTICE OF SERVICE OF ANSWERS TO INTERROGATORIES
07/28/98	SUBPOENA DUCES TECUM WITHOUT DEPOSITION
07/28/98	SUBPOENA DUCES TECUM WITHOUT DEPOSITION
08/03/98	AMENDED NOTICE OF TAKING DEPOSITION DUCES TECUM
09/16/98	NOTICE OF CHANGE OF ADDRESS OF COUNSEL

09/24/98	OBJECTION TO AMENDED INVENTORY
09/24/98	PETITIONER'S RESPONSE TO RESPONDENTS' FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS
10/20/98	RESPONSE AND OBJECTION TO PERSONAL REPRESENTATIVE'S REQUEST FOR POSSESSION OF ESTATE
10/20/98	PETITIONER'S RESPONSE TO RESPONDENTS' MOTION TO COMPEL AND ALLEGED THIRD REQUEST FOR PRODUCTION OF DOCUMENTS AND OBJECTIONS TO THE REQUEST
11/06/98	NOTICE OF PRODUCTION FROM NON-PARTIES
01/14/99	NOTICE OF TAKING DEPOSITION DUCES TECUM
01/14/99	NOTICE OF TAKING DEPOSITION DUCES TECUM
01/14/99	NOTICE OF TAKING DEPOSITION DUCES TECUM
01/14/99	NOTICE OF TAKING DEPOSITION
01/14/99	NOTICE OF TAKING DEPOSITION DUCES TECUM
01/14/99	NOTICE OF TAKING DEPOSITION DUCES TECUM
01/14/99	NOTICE OF TAKING DEPOSITION DECUS TECUM
01/14/99	SUBPOENA DUCES TECUM FOR DEPOSITION

01/14/99	SUBPOENA DUCES TECUM FOR DEPOSITION
01/14/99	SUBPOENA DUCES TECUM FOR DEPOSITION
01/14/99	SUBPOENA DUCES TECUM FOR DEPOSITION
01/14/99	SUBPOENA DUCES TECUM FOR DEPOSITION
01/14/99	SUBPOENA FOR DEPOSITION
01/14/99	SUBPOENA DUCES TECUM FOR DEPOSITION
01/27/99	AMENDED NOTICE OF TAKING DEPOSITION
02/04/99	NOTICE OF CONTINUATION OF DEPOSITION
01/10/99	SUBPOENA DUCES TECUM FOR DEPOSITION
02/10/99	NOTICE OF TAKING DEPOSITION DECUS TECUM
02/10/99	SUBPOENA DUCES TECUM FOR DEPOSITION
02/15/99	AFFIDAVIT
02/16/99	MOTION FOR ORDER TO SHOW CAUSE
02/16/99	MOTION TO STRIKE AFFIDAVIT OF J. KENNETH GRAY, M.D.
02/16/99	AFFIDAVIT IN SUPPORT OF MOTION TO STRIKE AFFIDAVIT OF J. KENNETH GRAY, M.D.
02/16/99	MOTION TO STRIKE TRANSCRIPTS
02/16/99	NOTICE OF FILING OF MATERIALS IN OPPOSITION TO RESPONDENTS MOTION FOR SUMMARY

	JUDGMENT
02/16/99	NOTICE OF FILING OF AFFIDAVIT IN OPPOSITION TO RESPONDENTS' MOTION FOR SUMMARY JUDGMENT
02/16/99	AFFIDAVIT
02/18/99	MEMORANDUM OF LAW IN OPPOSITION TO RESPONDENT MOTION FOR SUMMARY JUDGMENT
02/22/99	PETITIONER'S RESPONSE TO RESPONDENTS' SIXTH REQUEST FOR PRODUCTION OF DOCUMENTS AND OBJECTIONS TO THE REQUEST
02/11/99	PETITIONER'S OBJECTION TO MOTION FOR AUTHORITY TO PAY ATTORNEYS' FEES AND COSTS
07/07/99	PETITIONER'S RESPONSE TO PERSONAL REPRESENTATIVE'S MOTION TO UN-FREEZE THE ASSETS OF THE ESTATE
09/16/99	NOTICE FOR TRIAL
09/16/99	RESPONSE TO DISCOVERY REQUESTS
NO DATE	SUBPOENA DUCES TECUM WITHOUT DEPOSITION

Thomas C. Dunn, M.S., LPC, LMFT, NCC
1224 Val Genes
Edmond, OK 73003

March 14, 2000

Claire A. Duchemin
Attorney for Mona Lisa Kean
1350-52 North Gadsden Street
Tallahassee, Florida 32303

Dear Ms. Duchemin:

As you are likely aware, it appears that a trial date has been set for April 19th, 2000 in regards to the petition of Mona L. Kean. I only became aware of this after receiving a subpoena to appear.

Again, I remind you that I filed a WAIVER OR PRIORITY, CONSENT TO APPOINTMENT OF PERSONAL REPRESENTATIVE, A WAIVER OF NOTICE, AND A WAIVER OF BOND in response to Darrell Dunn's PETITION FOR ADMINISTRATION AND FORMAL NOTICE. I responded to Mona L. Kean's PETITION TO REVOKE PROBATE, TO REMOVE PERSONAL REPRESENTATIVE, TO APPOINT NEW PERSONAL REPRESENTATIVE OR ADMINISTRATOR AD LITEM, AND TO ADMIT PRIOR WILL OF DECEDENT TO PROBATE by filing my written defenses objecting to her petition. My waivers are specific to Darrell Dunn and do not apply

to Mona L. Kean. My response made me an interested person in the matter of Mona L Kean's petition, therefore you, as her resident attorney were and continue to be responsible to notice me by serving me a copy of all of Mona L. Kean's pleadings, motions, and notices within the duly prescribed time period, so that I may respond to such within the duly prescribed time bars as I deem necessary.

Regarding your letter of December 7. 1999, I can appreciate your interpretation of the applicable rules. However, my father-in-law and advisor Judge S.E. Tatum, Ret., presented a different interpretation of the Florida Probate Law and Rules of Civil Procedure. Additionally, your inappropriate comments and statements are noted for the future and have no basis in fact.

Your failure, as attorney representing Mona L. Kean, to provide me, an interested person, proper notice of filings, and notice of hearings as required is apparent. Sending me seventy-nine documents after the fact does not allow for my due process rights.

Respectfully,

s/ Thomas C. Dunn
Thomas C. Dunn

cc: Clerk, Probate Division, Leon County Circuit Court
Case No.: 98-00109-PR

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA

CASE NO.: 98-00109-PR
PROBATE DIVISION

In Re: The Estate of:
DOROTHY LEE WEAVER
_____/

Darrell Dunn as Personal Representative
of the Estate of Dorothy Lee Weaver and
the Estate of Dorothy Lee Weaver,
Petitioner,

vs.

Mona Lisa Kean,
Respondent.
_____/

MOTION FOR A WRITTEN ORDER

COMES NOW Thomas C. Dunn, an interested party and a beneficiary of the Estate of Dorothy L. Weaver, and respectfully prays the Court for the following:

1. A written order of the Court reflecting the oral pronouncement disposing MOTION FOR JUDGMENT AGAINST PETITIONER MONA LISA KEAN FOR FAILURE TO PROVIDE NOTICE, AND MOTION TO DISMISS PETITION

OF MONA LISA KEAN WITH PREJUDICE pending before the Court on April 19th, 2000 and prior to commencement of trial on April 19th, 2000, it which the court denied the aforementioned motions, which is reflected in the trial transcript, pages 10 through 13, an excerpt which is hereto attached. The ORDER DECLARING WILL INVALID AND GRANTING PETITION TO REVOKE WILL dated August 29th, 2000 did not contain a written disposition of the above referenced motions.

s/ Thomas C. Dunn
Thomas C. Dunn, Pro se
1224 Val Genes
Edmond, OK 73003

Page 1

VERIFICATION OF SERVICE

I HEREBY VERIFY that a true and correct copy of the foregoing was served via U.S. Mail this 23rd day of September, 2000, on the following:

Darrell D. Dunn, 35 Fair Way, Crawfordville, Florida 32327

Mike Carter, Esq., P.O. Box 566, Crawfordville, Florida 32326. Attorney for Personal Representative Darrell D. Dunn

Robert P. Dunn, 19084 Whispering Way, Tarpon Springs, Florida 34689

Claire Duchemin, Esq., 1350-52 North Gadsden St., Suite 52, Tallahassee, Florida 32303-5614, Attorney for Mona L. Kean.

s/ Thomas C. Dunn
Thomas C. Dunn, Pro se
1224 Val Genes
Edmond, Oklahoma 73003